

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MUNICIPAL AUTHORITY OF WESTMORELAND COUNTY, on behalf of itself and all others similarly situated,	:	CIVIL ACTION NO. 2:16-CV-422
	:	
	:	(Chief Judge Conner)
	:	
Plaintiff		:
		:
		:
v.		:
		:
		:
CNX GAS COMPANY, L.L.C. and NOBLE ENERGY, INC.,	:	
	:	
Defendants		:

ORDER

AND NOW, this 9th day of October, 2018, upon consideration of the motion (Doc. 163) “for leave to file its motion for class certification and [to] rule on class certification before ruling on the parties’ cross-motions for summary judgment” filed by plaintiff Municipal Authority of Westmoreland County (“MAWC”), wherein MAWC cites as its primary concern the “one-way intervention rule,” see Am. Pipe & Constr. Co. v. Utah, 414 U.S. 538, 545-49 (1974), and asks the court to permit filing of the motion for class certification and to rule on said motion prior to deciding the pending cross-motions for summary judgment, (see Doc. 164 at 1-3), and the court observing that the one-way intervention rule is designed to protect *defendants* in potential class actions, see Katz v. Carte Blanche Corp., 496 F.2d 747, 759, 760-62 (3d Cir. 1974) (*en banc*); Hartley v. Suburban Radiologic Consultants, Ltd., 295 F.R.D. 357, 367-68 (D. Minn. 2013), and that if a defendant “is willing to run the risk that the determination of liability, if [the defendant] loses, will be given effect in favor of

the class, with notice in the event of such determination,” the defendant may waive the protections of the rule, Katz, 496 F.2d at 762, and it appearing in the case *sub judice* that all parties agreed to defer the issue of class certification until after the resolution of dispositive motions, (see Doc. 78, June 27, 2017 Hr’g Tr. at 15:11-16:9; Doc. 113), and the court further noting that both defendants have constructively and expressly waived the protections of the one-way intervention rule, (see June 27, 2017 Hr’g Tr. at 15:11-16:9; Doc. 113; Doc. 171 at 1-2; Doc. 172 at 11), it is hereby ORDERED that MAWC’s motion (Doc. 163) is DENIED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania